NOT FOR PUBLICATION WITHOUT THE APPROVAL OF THE TAX COURT COMMITTEE ON OPINIONS

PELLA REALTY, LLC,	:	TAX COURT OF NEW JERSEY
	:	DOCKET NOS.: 002345-2017
Plaintiff,	:	002348-2017
	:	
v.	:	Approved for Publication In the New Jersey Tax Court Reports
	:	
PATERSON CITY,	:	
	:	
Defendant.	:	

Decided: February 27, 2020

Peter J. Zipp and Joseph G. Buro for plaintiff (Zipp & Tannenbaum, LLC, attorneys).

Michael T. Wilkos for defendant (Florio Kenny Raval, LLP, attorneys).

Abiola G. Miles and Michelline Capistrano Foster for amicus curiae, Director, Division of Taxation (Gurbir S. Grewal, Attorney General of New Jersey, attorney).

NOVIN, J.T.C.

These matters come before the court on plaintiff, Pella Realty, LLC's ("Pella") motions seeking interim freeze protection for the 2018 tax year under N.J.S.A. 54:51A-8 (the "Freeze Act").[1]

At issue is whether Paterson City's ("Paterson") adoption and implementation of an annual reassessment program under N.J.A.C. 18:12A-1.14(i) ("Annual Reassessment Program") for the 2017, 2018, 2019, and 2020 tax years constituted a "complete reassessment of all real property" in the taxing district, as such phrase is construed under the Freeze Act.

[1] Pella's motions are characterized as seeking "interim freeze protection" relief because Pella maintains local property tax appeals for the Subject Properties (as such term is defined herein) for the 2018 tax year.

For the reasons stated more fully below, the court finds that the Director of the New Jersey Division of Taxation's (the "Director") promulgation of regulations sanctioning the use of Annual Reassessment Programs was aimed at counties, and the taxing districts within those counties, that elected to adhere to the Real Property Assessment Demonstration Program, under N.J.S.A. 54:1-101 to -106 (the "RPADP"). During the tax years at issue Passaic County did not elect to be a "demonstration county" under the RPADP, therefore, Paterson's adoption of an Annual Reassessment Program under N.J.A.C. 18:12A-1.14(i) was improper.

Moreover, because the court also concludes that implementation of an Annual Reassessment Program does not preclude application of the Freeze Act, see Tartivita v. Borough of Union Beach, 31 N.J. Tax 335 (Tax 2019), as same does not constitute a complete revaluation or complete reassessment of all real property in the taxing district, Paterson's invocation of an improper Annual Reassessment Program will not serve to bar application of the Freeze Act.

However, because the court finds that Paterson should have been ineligible to conduct an Annual Reassessment Program, and despite such ineligibility the Director approved and Paterson implemented an Annual Reassessment Program; and the Director improperly determined that Paterson's Annual Reassessment Program should "receive credit for completion of a [district-wide] reassessment and recognition in the Director's annual Certified Table of Equalized Valuations," the court will conduct a plenary hearing in these matters. Such plenary hearing will serve to determine whether, due to Paterson's ineligibility to conduct an Annual Reassessment Program, the reassessment actually undertaken by Paterson satisfied the criteria for a district-wide reassessment as expressed by the court under Ennis v. Alexandria Twp. (Hunterdon County), 13 N.J. Tax 423 (Tax 1993), the Regulations, the Handbook for New Jersey Assessors, and the Application for Full Reassessment, Form AFR.

I. Factual Findings and Procedural History

Pella is the owner of the real property and improvements located at 137-141 Ellison Street ("137-141 Ellison Street"), 156-158 Ellison Street ("156-158 Ellison Street"), and 52-54 Church Street ("52-54 Church Street"), Paterson, New Jersey (137-141 Ellison Street, 156-158 Ellison Street and 52-54 Church Street are collectively referred to herein as the "Subject Properties").

On February 16, 2018, pursuant to a duly executed stipulation of settlement, the court entered judgment reducing the 2017 local property tax assessments on 156-158 Ellison Street and 52-54 Church Street under docket number 002345-2017 (the "February 16, 2018 Judgment"). Additionally, on July 23, 2018, pursuant to a duly executed stipulation of settlement, the court entered judgment reducing the 2017 local property tax assessment on 137-141 Ellison Street under docket number 002348-2017 (the "July 23, 2018 Judgment") (the February 16, 2018 Judgment and July 23, 2018 Judgment shall collectively be referred to herein as the "Judgments").[2]

On December 3, 2018, Pella moved before the court seeking "interim freeze [act] protection" for the Subject Properties for the 2018 tax year in accordance with the Judgments.

Following receipt of Pella's motions and Paterson's opposition thereto, on March 6, 2019, the court issued an order requiring the Director show cause before the court why it should not be joined in these matters as a necessary party under R. 4:28-1. The Director opposed joinder in these matters. However, the Director acknowledged its "statutory oversight of the valuation of real property located in this State and its interest in the court's interpretation and application of duly adopted regulations," and thus sought to participate in these matters as amicus curiae under R. 1:13-9.

[2] The February 16, 2018 Judgment reduced the total tax assessment for 156-158 Ellison Street to $531,400, and for 52-54 Church Street to $1,550,000. The July 23, 2018 Judgment reduced the total tax assessment for 137-141 Ellison Street to $2,000,000.

On June 25, 2019, the court entered an order granting the Director's motion to participate as amicus curiae and declining to join the Director as a necessary party. Thereafter, the court afforded Pella, Paterson, and the Director an opportunity to submit additional briefs and certifications addressing the substance of these motions.

In support of its motions, Pella argues that "[t]he statutory requirements which prevent the issuance of a Freeze Act application, namely a change in value to the subject property or a compliant revaluation or reassessment put into effect for the defendant taxing district for the Freeze Year of 2018 have not been met."

In response, Paterson submits that Pella is not entitled to protection under the Freeze Act because an "on-going annual reassessment program" was adopted and implemented for the 2017, 2018, 2019, and 2020 tax years. Specifically, Paterson argues that its municipal tax assessor "submitted an Application for Annual Reassessment Program [Form AFR-A] . . . to the Passaic County Board of Taxation" and the Director, and that its application was duly approved. Paterson emphasizes that its Application for Annual Reassessment identified the minimum standards for conducting an Annual Reassessment Program, which included line-item changes, inspections, reviewing building sketches, developing depreciation replacement costs, updating exempt property assessments, and updating land assessments.

Thus, Paterson charges that "all requirements for [an annual] reassessment have been met," including the adoption of a Resolution by its governing body authorizing the award of a contract to a third-party appraisal firm, Appraisal Systems Inc., to assist in the performance of the Annual Reassessment Program. In sum, Paterson maintains that under the Freeze Act, the conclusive and binding effect of the Judgments was terminated by virtue of its adoption and implementation of an Annual Reassessment Program.

In reply, Pella concedes that Paterson adopted an Annual Reassessment Program. However, Pella maintains that an Annual Reassessment Program is not, and does not constitute, a "complete revaluation or complete reassessment of all real property" as such phrase is contemplated under the Freeze Act, nor a "district-wide reassessment" as such phrase is contemplated under N.J.A.C. 18:12A-1.14(c). Pella posits that in resolving whether the conclusive and binding effect of the Judgments terminate under the Freeze Act, the court must engage in a two-step analysis.

First, Pella maintains, the court must ascertain whether a taxing district has adopted a program for a "complete revaluation or complete reassessment of all real property." If the court determines that a complete revaluation or complete reassessment program has not been undertaken, then Pella asserts that the court's inquiry is concluded, and a judgment granting Freeze Act protection must be entered. However, if the court concludes that a complete revaluation or complete reassessment has been undertaken by the taxing district, then Pella offers that the court must permit the parties to engage in discovery and take testimony to determine whether "the municipality did or did not carry out the [complete revaluation or complete reassessment] plan properly." If, following the hearing, the court determines that the taxing district did not properly carry out the complete revaluation or complete reassessment, then a judgment granting Freeze Act protection must be entered.

In its role as amicus curiae, the Director submits the certification of Deputy Director, Property Administration Branch, Patricia Wright ("Ms. Wright").[3] According to Ms. Wright, an Annual Reassessment Program "is deemed complete" when: (1) the requirements of the Application for Annual Reassessment Program, Form AFR-A, are met; and (2) the requirements

[3] Deputy Director Wright retired in December 2019.

of the contract negotiated between the taxing district and the appraisal firm conducting the reassessment are fulfilled.

Additionally, Ms. Wright submits that the only difference between an Annual Reassessment Program and a "district-wide" or full reassessment under N.J.A.C. 18:12A-1.14(c), is when the property inspections are completed. Under an Annual Reassessment Program, the taxing district must complete 100% of the exterior inspections during each year of the plan, and either 20% or 25% of interior inspections during the tax year preceding the year for which the Annual Reassessment Program has been implemented. Conversely, with a district-wide or full reassessment, the taxing district must complete 100% of exterior and interior inspections in the tax year preceding the year for which the "district-wide" or full reassessment has been implemented.

Further, Ms. Wright offers that if, based on its review, the Director finds that more than 50 percent of the taxing district's tax roll line items have changed, the district "will receive credit for completion of a [district-wide] reassessment and recognition in the Director's annual Certified Table of Equalized Valuations." Here, according to Ms. Wright, "84 percent of Paterson's real property line items" changed from 2016 to 2017, and "97 percent of Paterson's real property line items changed" from 2017 to 2018. Thus, on or about October 1, 2017 for the 2017 tax year, and on or about October 1, 2018 for the 2018 tax year, the Director credited Paterson's Annual Reassessment Program as a "completed district-wide reassessment on the Director's annual Certified Table of Equalized Valuations."

II. Conclusions of Law

A. The Freeze Act

The Freeze Act was enacted in 1946 in response to the harassing practices of certain municipal tax assessors that ignored determinations made by administrative agencies and courts

that set local property tax assessments and imposed a prior year's unreduced tax assessment in subsequent tax years. Thus, the Freeze Act created a mechanism requiring final judgments issued by the "Division of Tax Appeals . . . be conclusive and binding upon the municipal assessor and the taxing district, [the] parties to such appeal, for the assessment year and for the two assessment years succeeding the assessment year covered by the final judgment . . . ." Union Terminal Cold Storage Co. v. Spence, 17 N.J. 162, 167 (1954).[4] Except for "changes in the value of the property occurring after the assessment date," the local property tax assessment fixed by the final judgment could not be changed by the municipal tax assessor for the two year period following the judgment. Ibid.

In 1957, the Legislature amended the Freeze Act to fashion an exception to its application for revaluations. See L. 1957, c. 36. As amended, the Freeze Act provided that "the conclusive and binding effect of such judgment shall terminate with the tax year immediately preceding the year in which a program for a complete revaluation of all real property within the district has been put into effect." City of Newark v. Essex Cty. Bd. of Taxation, 110 N.J. Super. 93, 115 n.5 (Law. Div. 1970); see also Ennis, 13 N.J. Tax at 426. With its enactment of L. 1957, c. 36, the Legislature crafted an exemption from the Freeze Act's conclusive and binding effect for taxing districts that performed a complete revaluation of all property in their district.

Although the Freeze Act, as amended, provided no clear definition of the term "complete revaluation," nor initially any reference to the term "reassessment," in 1979, the Director promulgated regulations, codified at N.J.A.C. 18:12A-1.14 (the "Regulations"), aimed at addressing how the Director interpreted the terms revaluation and reassessment. See 11 N.J.R. 263(b). Specifically, the Regulations separated the terms revaluation and reassessment into three

[4] The Division of Tax Appeals was the predecessor to the Tax Court.

distinct categories: (1) "voluntary revaluation, when a taxing district proposes to revalue real property in said district voluntarily" (N.J.A.C. 18:12A-1.14(a)); (2) "revaluation ordered by county board of taxation" (N.J.A.C. 18:12A-1.14(b)); and (3) "reassessment, when an assessor proposes to revise the assessment list" (N.J.A.C. 18:12A-1.14(c)). 11 N.J.R. 263(b). Notably, when referring to the term "revaluation," the Director cross-referenced the Regulations with N.J.S.A. 54:3-22, which characterizes a program "in which the taxing district shall have completed and put into operation a district-wide revaluation program." N.J.S.A. 54:3-22.

Additionally, under the Regulations, the term "reassessment" was described as a program under which the tax assessor "proposes to revise the assessment list," with the "date of completion" of the reassessment program being followed by "the year in which such reassessment shall take effect." 11 N.J.R. 263(b). Thus, from the outset of the promulgation of the Regulations, the Director seemingly contemplated that a "reassessment" would be conducted by or under the direction of the municipal tax assessor and implemented only following "completion" of the program, thereby resulting in wholesale changes or revisions to the aggregate assessed values of property in the taxing district and in tax assessment roll or list.

Despite the Director's introduction of the Regulations, uncertainty continued to linger regarding application of the Freeze Act to reassessments. This uncertainty culminated with the Tax Court's decision in Ennis v. Alexandria Twp. (Hunterdon County), 13 N.J. Tax 423. In Ennis, the court considered whether the taxing district's adoption and completion of a reassessment program would bar the taxpayer's Freeze Act application. In examining the express statutory language, Judge Lasser highlighted that, as written, the Freeze Act did not expressly include the term reassessment. Rather, at that time, the Freeze Act provided that the "conclusive and binding effect of the judgment shall terminate with the tax year immediately preceding the year in which

a program for a complete revaluation of all real property within the district has been put into effect." N.J.S.A. 54:51A-8. However, he observed that when the Freeze Act was amended by our Legislature in 1957 to include the term "complete revaluation," the terms "revaluation program" and "reassessment program" were virtually synonymous. He further highlighted that in the decades following the Freeze Act's enactment, property values saw substantial increases and complete revaluations became more costly. Thus, in an effort to reduce costs and take advantage of previously unavailable computerized multiple regression analysis programs, municipal taxing districts sought to employ internal programs to "review and revis[e] all unit land values" of the properties in the district. Id. at 427. Thus, Judge Lasser found that a district-wide reassessment "results in a significant difference in the aggregate assessed valuation of that taxing district from one year to a following year, other than that caused by inclusion of added assessments or other new construction" and "results in a variance in values from one year to a following year in a substantial number of individual parcels of real property in that same taxing district." Id. at 426-27 (quoting Handbook for New Jersey Assessors, § 801.13 (3d ed. 1989)).

Ultimately, Judge Lasser concluded that the "probable legislative intent [was] that the term 'revaluation' in N.J.S.A. 54:51A-8 [the Freeze Act] encompasses the term 'reassessment,' because the terms revaluation and reassessment had previously been used interchangeably and because of the similar comprehensive nature of the revaluation and reassessment programs." Id. at 429. Therefore, the court concluded that the Freeze Act "will not apply . . . in a year in which a county tax board approved reassessment program is adopted by a taxing district." Id. at 430.

In 1999, in an effort to align the Freeze Act's statutory language with the conclusions reached in Ennis, our Legislature amended the Freeze Act. As amended, the Freeze Act provided that the "conclusive and binding effect of the judgment shall terminate with the tax year

immediately preceding the year in which a program for a complete revaluation or complete reassessment of all real property within the district has been put in effect." N.J.S.A. 54:51A-8 (the "1999 Amendments").

Despite the Legislature's adoption of the 1999 Amendments, for the ensuing eighteen years, the Regulations remained largely unchanged, continuing to recognize only three types of revaluation and reassessment programs: (a) "voluntary revaluations" (N.J.A.C. 18:12A-1.14(a)); (b) "revaluation order[ed] by a county board of taxation" (N.J.A.C. 18:12A-1.14(b)); and (c) "district-wide reassessment" (N.J.A.C. 18:12A-1.14(c)).

B. District-wide or full reassessment

In general, a reassessment has been defined as the "relisting and revaluation of all property, or all property of a given class, within an assessment district by order of an authorized officer . . . after a finding . . . that the original assessment is too faulty for correction through the usual procedures of review and equalization." Appraisal Institute, The Dictionary of Real Estate Appraisal, 161-62 (5th ed. 2010). Traditionally, a reassessment plan involved:

> an analysis of all recent sales of real property occurring within a taxing district, including a comparison of sales with the assessed values of the properties sold; an identification of real property value trends occurring within the taxing district; a review of all real property values, parcel by parcel within a taxing district; a review and revision of all unit land values, with such revisions as are made placed on a land value map as well as on individual property record cards; gathering of pertinent income data and utilization of such data where applicable; development of local cost conversion factors, and application of these factors to improvements contained in the taxing district, with adjustments reflected on individual property record cards; a review and adjustment of depreciation and obsolescence factors with changes reflected on individual property records; a reconciliation and revised true value developed for each property, which revised true value is to be noted on the property record card for each property; and carrying forward revised taxable values to the tax list for the year in which the reassessment is to become effective. Notification of taxpayers of the revised values developed

> for their properties, with an opportunity for taxpayer review is considered good practice.
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> [Ennis, 13 N.J. Tax at 427 (quoting Handbook for New Jersey Assessors, § 801.13 (3d ed. 1989).]

Moreover, a comprehensive reassessment plan will result in "change[s] in the property assessments of all property or all property in a given class in a taxing district; or changes in property assessments to a substantial number of individual parcels in a taxing district, . . . from one year to the next." City of Elizabeth v. 264 First St., LLC, 28 N.J. Tax 408, 439-40 (Tax 2015). See also Ennis, 13 N.J. Tax at 426-27 (concluding that a "good reassessment plan" will result "in a significant difference in the aggregate assessed valuation of that taxing district from one year to a following year, other than that caused by inclusion of added assessments or other new construction"). Thus, "an effective and useful reassessment program 'seeks to spread the tax burden equitably throughout a taxing district.'" 264 First St., LLC, 28 N.J. Tax at 440.

In addition to the foregoing assessment and valuation principles, the Director requires that a district-wide reassessment plan obtain the approval of the county board of taxation and the Director. N.J.A.C. 18:12A-1.14(c). Moreover, the Director has expressed that a district-wide reassessment will generally involve "adjustments to 100 percent of the line items" on the municipal tax roll; require the "exterior of all properties" in the taxing district to be inspected; and require the "interior of all properties" to be inspected prior to implementation of the district-wide reassessment plan. Ibid.

In sum, a district-wide reassessment plan will involve a comprehensive analysis of all recent property sales in the taxing district; identification of value trends throughout the taxing district; a revision of all land and improvement values to market rate; an inspection of the exterior and interior of all properties within the taxing district prior to its implementation; revisions to

individual property record cards; gathering relevant data to utilize in income analyses and for local cost conversion factors; reviewing and adjusting depreciation and obsolescence factors; developing a reconciled true market value for each property in the taxing district; and notifying taxpayers of the revised assessed values of their properties, while affording taxpayers an opportunity for review.

C. The RPADP - Real Property Assessment Demonstration Program

In January 2013, fourteen years after adoption of the 1999 Amendments, our Legislature enacted the RPADP. The RPADP represented a departure from traditional tax assessing practices. The RPADP was designed for the purpose of attempting to improve our current local property tax assessment system, which "fails to take full advantage of a collaborative system of property assessment between a county board . . . through its administrator, and the municipal assessors employed by each municipality in a county." N.J.S.A. 54:1-102(a). The Legislature envisioned that the RPADP would create a collaborative system, beneficial to taxpayers, through a "more precise, technology-driven real property assessment process that would ensure that each municipal assessor is using the same technology as his or her colleagues in assessing real property, and by modifications to the annual real property assessment calendar to better manage the assessment, and taxation, of real property . . . ." Ibid. In enacting the RPADP, our Legislature expressed that "[i]t is in the public interest of the State . . . to implement a demonstration program to investigate whether systemic changes to the current system of real property assessment, . . . will help address the shortcomings of the municipal assessment system . . . ." Ibid.

The "demonstration program" created under the RPADP is "open . . . to any county in the State, to evaluate the efficacy and functionality of a municipal system of real property assessment directed by a county tax board . . . ." N.J.S.A. 54:1-104(a). However, the legislature specifically

limited participation under the RPADP to "no more than two counties" during the first two years, and to "no more than two additional counties" during the third and fourth years of the program. Ibid. The rationale for the Legislature limiting county participation is set forth under the RPADP's express statutory language, to develop an "enhanced system of municipal real property assessment as a complement to the county-based real property assessment system pilot" created under N.J.S.A. 54:1-86. Enabling different programs to exist "under which the real property assessment function is performed using . . . different methods will allow the Legislature to evaluate the effectiveness of each system of real property assessment, and to determine whether the current statutory system . . . should be revised." N.J.S.A. 54:1-104(a).

Under the RPADP, in order for a county to qualify as a "demonstration county" it must: (i) adopt a county tax board resolution certifying to the Director that it "has sufficient funds available to pay all of the costs associated with the demonstration program"; (ii) "forward the resolution to the Director"; (iii) be a "State-certified MOD-IV vendor" or contract with "a single State-Certified MOD-IV vendor to provide MOD-IV technology," including the necessary software to implement the program, and provide the Director with a copy of its certification or contract; and (iv) cause the "members of the county's assessors' association, by not less than 2/3rds of its voting membership" to approve implementation of the demonstration program. Ibid. Additional requirements which detail how a county tax board shall implement the demonstration program, including, but not limited to dates certain for furnishing software to taxing districts, commencement of the program, submission of a plan to the Director, and establishment of a "Steering Committee" are enumerated under the RPADP. N.J.S.A. 54:1-104(b).

Moreover, all taxing districts operating under the RPADP are required to conduct "the revaluation or reassessment of real property, as well as other assessment-based functions such as

the development of a compliance plan, maintenance of assessments and the calculation of added assessments . . . using the [approved] property assessment software." N.J.S.A. 54:1-104(e). Additionally, under the RPADP, the county board of taxation "shall compel . . . implementation of a revaluation or reassessment of real property in any municipality in the demonstration county at such time that the county board of taxation determines the need therefor." N.J.S.A. 54:1-104(f).

Further, the RPADP provides that the "State Treasurer, in consultation with the Director of the Division of Taxation in the Department of the Treasury . . . , shall adopt rules and regulations to effectuate the provisions of [the RPADP]." N.J.S.A. 54:1-106.[5]

D. Annual Reassessment Program

Following enactment of the RPADP and in accordance with the mandate of N.J.S.A. 54:1-106, the Director promulgated several amendments and additions to the Regulations. As part of those proposed amendments, the Director introduced a newly created subsection (i) under N.J.A.C. 18:12A-1.14. See 48 N.J.R. 1605(a) (August 15, 2016). In offering the new proposed regulation for public comment, the Director explained that "[n]ew subsection (i) is proposed for the purposes of equity and reducing costs because of the changes affecting only certain counties under [the RPADP] N.J.S.A. 54:1-101." 48 N.J.R. 1605(a) (emphasis added).

The "[n]ew subsection (i)" was captioned "Annual Reassessment," and represented a departure from the district-wide reassessments that had existed since 1979 under N.J.A.C. 18:12A-1.14(c). As initially drafted by the Director, "[n]ew subsection (i)" provided, in part:

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[5] A county that has not elected to participate under the RPADP or the Property Tax Assessment Reform Act, N.J.S.A. 54:1-86 to -100, may nonetheless, by ordinance or resolution and with the approval of the county board of taxation, "adopt the alternative real property assessment calendar" established under the RPADP. N.J.S.A. 54:1-105. A county's adoption of the alternative real property assessment calendar is permanent, and no other real property assessment calendar can be followed. However, the adoption of such calendar does not transform the county into a "demonstration county" under the RPADP. N.J.S.A. 54:1-105.

> (i) Annual Reassessment. An assessor proposing to implement an annual reassessment shall submit an application to perform the reassessment with the county board of taxation and the Director of the Division of Taxation.
>
> 1. The application for annual reassessment shall be completed on Form AFR-A (Application for Annual Reassessment) . . .
>
> 2. Prior to filing Form AFR-A, an assessor must notify, in writing, the mayor and local governing body, the county board of taxation, and the county tax administrator of the basis for the assessor's determination that the proposed reassessment is needed.
>
> i. The exterior of all properties in a municipality must be inspected.
>
> ii. The interior of all properties must be attempted to be inspected within the five years immediately preceding the year of implementation of the proposed district-wide reassessment. If unable to gain entry, a card must be left after the first attempt to inspect with the appropriate contact information . . . .
>
> [48 N.J.R. 1605(a).]

In response to the proposed "[n]ew subsection (i)," the New Jersey Association of County Tax Boards ("NJACTB") requested that the Director "clarify the wording of the proposed amendments" to convey that it applies only to Annual Reassessment Programs. See 49 N.J.R. 271(a). Further, commenting on the proposed regulation, the NJACTB offered that,

> at subparagraph (i)2i, it may be better to include the word 'annually' at the end of the sentence. At subparagraph (i)2ii, the phrase 'proposed district wide reassessment' should be replaced with 'proposed annual reassessment program' because the intent [is] to allow annual reassessments to commence within five years of either the completion of a revaluation or a district-wide reassessment, and this subparagraph does not pertain to district-wide reassessment programs.
>
> [49 N.J.R. 271(a) (emphasis added).]

The Director "agree[d]" with the NJACTB's comments, responding that "the intent of the amendments was to provide for regulations governing annual reassessments." Ibid. Accordingly,

by virtue of "agree[ing]" with NJACTB's comments, the Director expressed that "[n]ew subsection (i)" and the Annual Reassessment Program was something unlike and different from a district-wide reassessment, and the terms should not be used synonymously.

E. Application of Annual Reassessment Program

The first issue facing the court is one of interpretation of administrative regulations. Specifically, was the Director's promulgation of "[n]ew subsection (i)," permitting the implementation of Annual Reassessment Programs, intended to apply to all taxing districts, or solely to taxing districts located within a "demonstration county" under the RPADP?

Recognizing the limitations of administrative regulations, our Supreme Court has stated that regulations "'must be within the fair contemplation of the delegation of the enabling statute.'" N.J. Guild of Hearing Aid Dispensers v. Long, 75 N.J. 544, 561 (1978) (quoting S. Jersey Airways v. Nat'l Bank of Secaucus, 108 N.J. Super. 369, 383 (App. Div. 1970)). The authority possessed by an administrative agency to promulgate regulations "consists of the powers expressly granted which in turn are attended by those incidental powers which are reasonably necessary or appropriate to effectuate the specific delegation." In re Regulation F-22, Office of Milk Indus., 32 N.J. 258, 261 (1960) (citing Rainier's Dairies v. Raritan Valley Farms, Inc., 19 N.J. 552 (1955)). However, an administrative agency's authority to accomplish the responsibilities specifically delegated to it under our statutes must be "liberally construed . . . [and] the courts should readily imply such incidental powers as are necessary to effectuate fully the legislative intent." In re Suspension of Heller, 73 N.J. 292, 303 (1977); Cammarata v. Essex Cty. Park Comm'n, 26 N.J. 404, 411 (1958); Lane v. Holderman, 23 N.J. 304, 315 (1957).

Moreover, "[a]gency regulations are presumptively valid, and should not be invalidated unless they violate the enabling act or its express or implied legislative policies." GE Solid State,

Inc. v. Dir., Div. of Taxation, 132 N.J. 298, 306 (1993) (internal citations omitted). As a general principle, our courts should "accord substantial deference to the interpretation an agency gives to a statute that the agency is charged with enforcing." Ibid. Significantly, however, "an administrative agency may not, under the guise of interpretation, extend a statute to give it a greater effect than its language permits." Id. at 306-307. See also Kingsley v. Hawthorne Fabrics Inc., 41 N.J. 521, 528 (1964).

Here, no challenge is raised by Pella to the Director's authority to promulgate the Regulations.[6] Rather, the court is faced with differing and seemingly contradictory interpretations of the Regulations. Based on a review of the materials presented, the court finds that the Regulations conceiving of Annual Reassessment Programs under "[n]ew subsection (i)" were drafted to directly respond to and address the newly created requirements under the RPADP and to serve as a cost savings vehicle for those counties and taxing districts participating under the RPADP.

"New subsection (i)" under the Regulations was proposed by the Director on August 15, 2016, approximately two and a half years following the effective date of the RPADP. Neither Pella, Paterson, nor the Director offered evidence of any statutory enactment contemplating a program involving annual reassessments other than the RPADP. Additionally, the RPADP specifically contemplated that the Director would need to promulgate regulations to "effectuate the provisions" of the RPADP. See N.J.S.A. 54:1-106.

In enacting the RPADP, it was our Legislature's primary intent to use available technology to create a "collaborative system" of real property assessment between the county boards of

[6] The RPADP expressly authorized the promulgation of regulations by the Director to effectuate its intent and purpose. N.J.S.A. 54:1-106.

taxation and the municipal assessors that would "result in a cost-effective and accurate process of real property assessment to benefit real property owners and property taxpayers." N.J.S.A. 54:1-102. Both the Sponsor Statement and the Assembly Appropriations Committee Statement to the RPADP highlight that "all future evaluations and reassessments of real property by municipalities in a demonstration county will be performed on the county system, and the system will also be used for other assessment-based functions, such as the development of a compliance plan, maintenance of assessments, and the calculation of added assessments." Sponsor's Statement to S. 1213, at 19 (January 23, 2012); Assembly Appropriations Committee Statement to S. 1213, at 1 (December 13, 2012). Additionally, both the Sponsor's Statement and Assembly Appropriations Committee Statement further provide that "[t]he bill also requires the county board of taxation of each demonstration county to compel the implementation of a revaluation or reassessment of real property." Sponsor's Statement to S. 1213, at 20; Assembly Appropriations Committee Statement to S. 1213, at 2-3 (emphasis added).

Thus, as a result of the RPADP mandate requiring county boards of taxation to compel taxing districts to implement a revaluation or reassessment, combined with the RPADP's stated desire to provide a "cost-effective and accurate process of real property assessment" for the benefit of property owners and taxpayers, the Annual Reassessment Program was born. The Annual Reassessment Program, promulgated by the Director, achieved the Legislature's stated purpose of having a reassessment or revaluation conducted under the collaborative system. Importantly, the Annual Reassessment Program also served one of the paramount goals of the RPADP by reducing costs borne by taxing districts. By permitting taxing districts located in demonstration counties to implement an Annual Reassessment Program and conduct interior inspections over five years, instead of conducting 100% interior inspections prior to implementation of a "district-wide

reassessment" under N.J.A.C. 18:12A-1.14(c), the costs to be incurred by a taxing district to perform interior inspections could be phased in over five years.

An administrative regulation "must be within the fair contemplation of the . . . enabling statute." N.J. Guild of Hearing Aid Dispensers, 75 N.J. at 561 (quoting S. Jersey Airways, 108 N.J. Super. at 383). Here, the court finds that the Director's mandate to promulgate "[n]ew subsection (i)" was derived principally under the RPADP.

Further, this court's plain reading of the Director's comments introducing "[n]ew subsection (i)," which emphasized that it was the Director's intent that this provision apply to "only certain counties under N.J.S.A. 54:1-101 [the RPADP]," shapes the court's conclusion in this matter. 48 N.J.R. 1605(a) (emphasis added). This statement informs the court that the provisions of N.J.A.C. 18:12A-1.14(i) were not intended to apply to every county and taxing district statewide; rather, they were applicable only to those "demonstration count[ies]" participating under the RPADP. Moreover, the Director's response to the NJACTB's comments that Annual Reassessment Programs under N.J.A.C. 18:12A-1.14(i) "do[] not pertain to district-wide reassessment programs," offers further insight that the Director intended to develop a distinct type of annual reassessment, different from district-wide reassessments, for use by the taxing districts located in demonstration counties under the RPADP.

Thus, the court finds that to implement an Annual Reassessment Program: (i) the taxing district must be situated in a "demonstration county" that is in compliance with the RPADP; (ii) the taxing district must submit an "Application for Annual Reassessment . . . on Form AFR-A (Application for Annual Reassessment)"; (iii) the application must be approved by the county tax board and the Director; (iv) the taxing district must agree to inspect the "exterior of all properties in a municipality . . . annually"; and (v) the taxing district must attempt to inspect the "interior of

all properties . . . within the five years immediately preceding the year of implementation of the proposed annual reassessment program . . . [which] may be done in a five-year ongoing assessment cycle." N.J.A.C. 18:12A-1.14(i)(2)(ii).

Here, during the tax years at issue, Passaic County was not an RPADP demonstration county. Thus, "[n]ew subsection (i)," which permitted implementation of an Annual Reassessment Program, was inapplicable to Paterson.[7] As such, because Paterson was not located in an RPADP demonstration county the court finds that it should have been precluded from implementing an Annual Reassessment Program.

F. Annual Reassessment Program and preclusion of Freeze Act application

Although the Regulations and application forms for a district-wide reassessment and Annual Reassessment Program share some common language and requirements, it is the Director's own account, and the absence of provisions in the Regulations, that is telling about their differences.

A taxing district applicant proposing to conduct a district-wide reassessment under N.J.A.C. 18:12A-1.14(c) must: (i) submit an Application for Full Reassessment, Form AFR (N.J.A.C. 18:12A-1.14(c)(1)); (ii) furnish written notice of the need for the reassessment to its governing body and county tax board (N.J.A.C. 18:12A-1.14(c)(2)); (iii) obtain the approval of its application from the county tax board and the Director (N.J.A.C. 18:12A-1.14(c)(4) to (5)); (iv) conduct a "thorough inspection of the exterior of all improvements" on the properties in the taxing

[7] However, for reasons unclear in the record, the Passaic County Board of Taxation and the Director approved Paterson's Application for Annual Reassessment, Form AFR-A. Based on the court's interpretation of the Regulations, because Passaic County was not an RPADP demonstration county, use of an Annual Reassessment Program should have been inapplicable to Paterson. Instead, Paterson should have been required to implement a full or district-wide reassessment plan and submit an Application for Full Reassessment, Form AFR, to the Passaic County Board of Taxation and the Director for approval.

district (Form AFR); (v) conduct a "thorough inspection of the interior of all improvements" on the properties in the taxing district, or if performing interior inspections over a five year or less period, file its application in the first year inspections are to be conducted, or if the assessor was unable to gain entry into the interior, left contact information and gained "entry into at least 50% of the interior of those improvements" (Form AFR); (vi) submit a plan of work and a monthly report on the status of the district-wide reassessment until completion of the plan (N.J.A.C. 18:12A-1.14(d)); and (vii) conduct a taxpayer orientation program to describe the district-wide reassessment program and have information on the taxpayer orientation program on the taxing district's website (Form AFR). Provided that the taxing district complies with the foregoing requirements, the Freeze Act will be inapplicable. See N.J.A.C. 18:12A-1.14(g) (stating that "[i]n case of an approved revaluation or district-wide reassessment," the Freeze Act shall be inapplicable).

Generally, a district-wide reassessment will "result[] in a significant difference in the aggregate assessed valuation of that taxing district from one year to a following year, other than that caused by inclusion of added assessments or other new construction . . . ." Ennis, 13 N.J. Tax at 426-27. Moreover, following implementation of a district-wide reassessment, there will commonly be a "variance in values from one year to a following year in a substantial number of individual parcels of real property in that same taxing district." Ibid. See also Regent Care Ctr., Inc. v. Hackensack City, 362 N.J. Super. 403, 417 (App. Div. 2003) (concluding that when an assessor "in the performance of the required monitoring function, observed a broad-based shift in market values, [then] a district-wide revaluation or reassessment may be required."); Handbook for New Jersey Assessors, § 903.01 (October 2018) (stating that "[r]eassessment/revaluation may

be needed when properties in a taxing district are not being assessed at the same rate of true value and/or are being assessed substantially below or above true market value.").

The Regulations also set forth the application requirements and criteria for a taxing district seeking to implement an Annual Reassessment Program. N.J.A.C. 18:12A-1.14(i). While some of the procedural requirements of an Annual Reassessment Program are similar to that of a district-wide reassessment plan, they are by no means identical. Based on this court's analysis of the Regulations, to conduct an Annual Reassessment Program: (i) the taxing district must be situated in a "demonstration county" in compliance with the RPADP; (ii) the taxing district must submit an "Application for Annual Reassessment . . . on Form AFR-A (Application for Annual Reassessment)"; (iii) the application must be approved by the county tax board and the Director; (iv) the taxing district must conduct a "thorough inspection of the exterior of all improvements" (Form AFR-A); and (v) the taxing district must "thoroughly inspect[] the interior of 20% or 25% of the total line items" based on whether the Annual Reassessment Program is being phased in over four or five years, or if the assessor is unable to gain entry into the interior, leave the assessor's contact information and gain "entry into at least 50% of the interior of those improvements" (Form AFR-A). See N.J.A.C. 18:12A-1.14(i).

Importantly, several key distinctions exist between a district-wide reassessment under N.J.A.C. 18:12A-1.14(c) and an Annual Reassessment Program under N.J.A.C. 18:12A-1.14(i). First, no requirement exists under the Regulations, N.J.A.C. 18:12A-1.14(i), or Form AFR-A for the assessor to submit a plan of work or a monthly report on the status of the Annual Reassessment Program. Additionally, under the Annual Reassessment Program, there is no obligation for the taxing district to conduct a taxpayer orientation program or recite any information regarding the program on the taxing district's website.

Second, in proposing "[n]ew subection (i)," the Director expressly acknowledged that the provisions of N.J.A.C. 18:12A-1.14(i) do not apply to district-wide reassessments. Instead, "[n]ew subsection (i)" was introduced "to provide regulations governing annual reassessments." See 49 N.J.R. 271(a).

Third, in promulgating the revisions and amendments to the Regulations, the Director failed to offer any amendments to N.J.A.C. 18:12A-1.14(g), which expressly addresses the provisions that bar application of the Freeze Act. Rather, N.J.A.C. 18:12A-1.14(g) remained unchanged providing that "[i]n case of an approved revaluation or district-wide reassessment,. . . [the] (Freeze Act) shall [not] be applicable with respect to the year in which the program becomes effective." N.J.A.C. 18:12A-1.14(g) (emphasis added). Thus, as a result of the Director's intentional failure to include Annual Reassessment Programs under N.J.A.C. 18:12A-1.14(g), the court must presume that the Director intended for only approved revaluations under N.J.A.C. 18:12A-1.14(a) and (b), and approved district-wide reassessments under N.J.A.C. 18:12A-1.14(c), to preclude application of the Freeze Act.

Finally, district-wide reassessments under N.J.A.C. 18:12A-1.14(c) anticipate "adjustments to 100 percent of the line items" and exterior and interior inspections of "all properties" prior to implementation of the plan. N.J.A.C. 18:12A-1.14(c)(3). Conversely, with an Annual Reassessment Program, interior inspections "must be attempted" during an ongoing five-year cycle. N.J.A.C. 18:12A-1.14(i)(2)(ii).

In attempting to reconcile these and other ambiguities under the Regulations, discern the Legislative intent, and compare and contrast a district-wide reassessment and an Annual Reassessment Program, the court recently issued a comprehensive opinion concluding that it "is not convinced that . . . annual [re]assessments are a district-wide reassessment such that Freeze

[Act] relief is barred . . . ." Tartivita, 31 N.J. Tax at 365. Without restating the substance of each inconsistency and conflict observed by Judge Sundar under the Regulations and RPADP, she cogently explained that when a measure of doubt or uncertainty exists under any statute involving the imposition of a tax, it should be "construed most strongly against the government, and in favor of the citizen." Gould v. Gould, 245 U.S. 151, 153 (1917). See also Fedders Fin. Corp. v. Dir., Div. of Taxation, 96 N.J. 376, 386 (1984) (concluding that "[w]hen the statutory language is unclear and the legislative history is wanting, the doubt referred to in Gould exists and its principle is applicable").

Here, the court concludes for the reasons set forth above, the implementation of an Annual Reassessment Program will not serve to bar application of the Freeze Act.

G. Conversion of an Annual Reassessment Program into a district-wide or full reassessment

Despite Paterson having made application for, received approval of, and implemented an Annual Reassessment Program, the Director posits that because "84 percent of Paterson's real property line items" changed from 2016 to 2017, and "97 percent of Paterson's real property line items changed" from 2017 to 2018, Paterson's Annual Reassessment Program should "receive credit for completion of a [district-wide] reassessment and recognition in the Director's annual Certified Table of Equalized Valuations" for the 2017 and 2018 tax years. As a result, on or about October 1, 2017 for the 2017 tax year, and on or about October 1, 2018 for the 2018 tax year, the Director credited Paterson for completion of a district-wide reassessment for the 2017 and 2018 tax years on the Director's annual Certified Table of Equalized Valuations.[8]

[8] During oral argument on the court's March 6, 2019 Order to Show Cause, the court questioned counsel as to what influence, if any, the court's decision in these matters may have on the Director's Table of Equalized Valuations, as applied to Paterson, for the 2017 and 2018 tax years. The Director submitted a detailed brief expressing its view that after expiration of the applicable

The Director maintains that because 84 percent of the assessment line items changed on Paterson's municipal tax roll from 2016 to 2017, and 97 percent of the assessment line items changed from 2017 to 2018, it viewed Paterson as having conducted a "district-wide reassessment" under N.J.A.C. 18:12A-1.14(c). As authority for its ability to make this determination, the Director cites N.J.A.C. 18:12A-1.14(g). N.J.A.C. 18:12A-1.14(g) states that "[n]o revaluation or district-wide reassessment will be credited by the Director for recognition on the Director's annual Table of Equalized Valuation where less than 50 percent of the line items have changed." Thus, because the Director found that a change in 84 percent and 97 percent of Paterson's assessment line items exceeded the 50 percent threshold, it afforded Paterson credit for a district-wide reassessment on the Certified Table of Valuations for the 2017 and 2018 tax years.[9]

However, the Director's consideration of only the percentage of assessment line items that changed as the barometer of whether a revaluation or district-wide reassessment was conducted, while seemingly ignoring the other key considerations and factors as expressed by the court in Ennis, may have resulted in the Director reaching an erroneous conclusion. Moreover, as expressed above, an Annual Reassessment Program and a district-wide reassessment are not interchangeable, and thus do not create the identical legal rights, duties, and/or obligations.

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forty-five day limitations period, under N.J.S.A. 54:51A-4, the Director and the Tax Court are without jurisdiction to revise the Table of Equalized Valuations, even if the court concludes that Paterson did not conduct a district-wide reassessment. Because the court, at this time, does not reach a conclusion whether Paterson's reassessment satisfied the criteria of a district-wide reassessment, it is premature for the court to address the Director's arguments herein.

[9] The Director's 2016 Table of Equalized Valuations for Paterson, certified October 1, 2015, reflected an average ratio of assessed to true value of 90.52%. The Director's 2017 Table of Equalized Valuations for Paterson, certified October 1, 2016, reflected an average ratio of assessed to true value of 91.45%. The Director's 2018 Table of Equalized Valuations for Paterson, certified October 1, 2017, reflected an average ratio of assessed to true value of 86.93%.

The court finds the Director's reliance on N.J.A.C. 18:12A-1.14(g) as authority for its ability to afford Paterson credit on its annual Certified Table of Equalized Valuations is misplaced. N.J.A.C. 18:12A-1.14(g) addresses only the Director's ability under a "revaluation or district-wide reassessment" to afford a municipality credit on its Certified Table of Equalized Valuations. N.J.A.C. 18:12A-1.14(g) makes no reference to an Annual Reassessment Program and does not afford the Director the ability, after approval and implementation of an Annual Reassessment Program to recast it as a district-wide reassessment. Here, admittedly, Paterson submitted an Application for Annual Reassessment, Form AFR-A, obtained approval of the board of taxation and the Director of its annual reassessment, and implemented an Annual Reassessment Program. However, Paterson did not submit an application for, obtain approval of, or implement a district-wide or full reassessment under N.J.A.C. 18:12A-1.14(c). Annual Reassessment Programs do not afford taxing districts relief from application of the Freeze Act, while revaluations and district-wide reassessments will generally afford such relief.

The court's review of the changes in Paterson's aggregate assessed values (the total assessed value of all real property in the taxing district) from 2016 to 2017 revealed that the aggregate assessed value of all real property in Paterson in 2016 was $5,742,974,218; however, the aggregate assessed value of all real property in Paterson in 2017 was $5,800,162,700, a difference of less than one percent. Moreover, the court's review of the changes in the aggregate assessed value of all real property in Paterson from 2017 to 2018 revealed that there was a decline of approximately two percent ($5,673,221,500/$5,800,162,700 = 2.2%). A review of these changes in the aggregate assessed value of all real property in Paterson from 2016 to 2017 and 2017 to 2018 does not necessarily lead one to the inexorable conclusion that the changes are significant or meaningful.

In addition, the mathematical equation that demonstrates that Paterson reported either an 84 percent or a 97 percent change in its tax roll is not, per se, evidence that a significant change or difference was made in the aggregate assessed value of all real property. For example, as the Director observed, Paterson's Annual Reassessment Program resulted in a change in the assessed value of 97 percent of the properties. However, if each change in assessed value was $1.00, while the change will affect 97 percent of the line items on Paterson's tax roll, it cannot be characterized as a material change in the aggregate assessed values of the taxing district, or material variance in values of the individual parcels of property from one year to the next. Observing that a percentage of changes were made to the line items on the municipal tax roll does not inevitably lead to the conclusion that a district-wide reassessment was undertaken. More than a cursory or perfunctory examination of the percentage of line item changes from one year to the next must be undertaken. Rather, as detailed by Judge Lasser, a comprehensive analysis must be conducted to discern whether the district-wide reassessment resulted in a "significant difference in the aggregate assessed valuation of that taxing district from one year to a following year." Ennis, 13 N.J. Tax at 426. Such examination should include, but is not necessarily limited to, an analysis of the individual parcels composing the tax roll to discern whether there is a "variance in [assessed] values from one year to the following year." Id. at 427.

Prior to implementing a revaluation, a district-wide reassessment or an Annual Reassessment Program, the taxing district must submit, and the Director must approve, the taxing district's application. See N.J.A.C. 18:12A-1.14(a), (b)(2), (c)(5) and (i)(4); Handbook for New Jersey Assessors, § 905.02 (December 2019). Thus, the Director is afforded the opportunity to review the terms of the application, what actions the taxing district proposes to undertake, and in the case a of revaluation, the contract for revaluation. However, unlike an Annual Reassessment

Program, when a taxing district is undertaking a revaluation or district-wide reassessment, the assessor is required to submit a plan of work and report on the status of the revaluation or district-wide reassessment every thirty days. See N.J.A.C. 18:12A-1.14(d). The Regulations further detail the form that must be used in submission of a plan of work and the data and information which must be contained in each such report. See N.J.A.C. 18:12A-1.14(e). Thus, while the Director receives monthly reports detailing the activities and functions that have been undertaken in the revaluation and district-wide reassessment, no concomitant obligation exists when undertaking an Annual Reassessment Program. In sum, after approval of an Annual Reassessment Program, the taxing district's assessor bears no obligation to report to the Director on whether the program was performed in accordance with the terms of the application, if all exterior and interior inspections were conducted, if sketches containing each building dimension were corrected, if depreciated replacement costs for all residential improvements were developed, et cetera.

Here, without having received any monthly plans of work, or seemingly any details regarding Paterson's implementation of the Annual Reassessment Program, and apparently based solely on its analysis of the percentage of real property line items that changed from year to year, the Director determined Paterson's Annual Reassessment Program should "receive credit for completion of a [district-wide] reassessment and recognition in the Director's annual Certified Table of Equalized Valuations," for the 2017 and 2018 tax years. Moreover, the Director rendered its decision to afford Paterson credit for completion of a district-wide reassessment plan on October 1, 2017 and October 1, 2018 for the 2017 and 2018 tax years, respectively, approximately

twelve months after the Director promulgated its Certified Table of Equalized Valuations under N.J.S.A. 54:51A-4 for each year.[10]

Additionally, the court emphasizes that one of the pivotal components in a revaluation or district-wide reassessment is notice to the taxpayers. As expressed by Judge Lasser, "[n]otification of taxpayers of the revised values developed for their properties, with an opportunity for taxpayer review is considered good practice." Ennis, 13 N.J. Tax at 427. Under a district-wide reassessment plan, the taxing district affords notice to taxpayers and must agree to undertake a "taxpayer orientation program" describing the reassessment and its goals. Additionally, the taxing district is required to set forth information on its website about the reassessment plan and furnish the tax assessor's contact information. There is no such requirement of notice to taxpayers under an Annual Reassessment Program.

Therefore, the court finds that the Director's reliance solely on the percentage change of Paterson's tax roll for its determination that Paterson's Annual Reassessment Program should "receive credit for completion of a [district-wide] reassessment and recognition in the Director's annual Certified Table of Equalized Valuations," was improper and misplaced.

Because the court finds that: (i) Paterson should have been ineligible to conduct an Annual Reassessment Program, as it was not located in a demonstration county under the RPADP; (ii) despite such ineligibility, the Director approved and Paterson implemented an Annual Reassessment Program; and (iii) the Director improperly afforded Paterson's Annual Reassessment Program "credit for completion of a [district-wide] reassessment," the court shall schedule these matters for a plenary hearing. The court's plenary hearing shall focus on whether

[10] As expressed in note 8, supra, the Director charges that after expiration of the applicable forty-five-day limitations period, under N.J.S.A. 54:51A-4, the Director and the Tax Court are without jurisdiction to revise the Table of Equalized Valuations.

the Annual Reassessment Program undertaken by Paterson satisfied the criteria for a district-wide reassessment as expressed by the court under Ennis, the Regulations, and the Application for Full Reassessment, Form AFR.

Thus, the court defers decision on Pella's motions for interim Freeze Act protection, subject to the outcome of the plenary hearing on whether Paterson's reassessment would qualify as a district-wide reassessment under N.J.A.C. 18:12A-1.14(c).

III. Conclusion

For the above-stated reasons, the court concludes that: (i) an Annual Reassessment Program under N.J.A.C. 18:12A-1.14(i) is not a complete revaluation or complete reassessment of all real property in a taxing district as such phrase is contemplated under N.J.S.A. 54:51A-8; and (ii) the Annual Reassessment Program regulations promulgated by the Director under N.J.A.C. 18:12A-1.14(i) are applicable only to taxing districts in a "demonstration county" under the RPADP. However, the court will defer decision on Pella's motions subject to the outcome of a plenary hearing and presentation of evidence to determine whether, as a result of Paterson's ineligibility to conduct an annual reassessment, the assessment plan implemented by Paterson qualified as a district-wide reassessment under N.J.A.C. 18:12A-1.14(c).